

## REMARKS/ARGUMENTS

Claims 1-10, 14-17, 22-25, 28-43, 48-51, 58-65 and 70 remain in this application.

Claims 4, 11-13, 18-21, 26-27, 32-33, 44-47, 52-57, and 66-69 have been canceled. Claims 1, 5, 8, 16, 22, 28, 29, 34, 35, 40, 41, 58, 59, and 70 have been amended.

In the Office Action dated April 18, 2003, the Examiner allowed claims 14-17 and 48-51, rejected claims 1-6, 9, 10, 22-25, 28-39, 42, 43, 58-65, and 70, and objected to claims 7, 8, 40, and 41. Applicants request reconsideration of the rejected and objected to claims in view of the following remarks.

### I. Claim Rejections – 35 USC 102

Claims 1-6, 9, 22-25, 28-35, 42, 43, 58-65, and 70 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Publication 2002/0113966 (the Shchegrov reference).

#### A. Claim 1

Claim 1 has been amended to include the limitation of “storing the second trial profile and the second sample trial spectrum signal data in a dynamic library of profiles.” Applicants assert that the Shchegrov reference does not disclose this limitation.

In rejecting claims 4 and 5, the Examiner asserted that the Shchegrov reference discloses “storing the first trial profile, the second trial profile, the additional trial profiles, the first trial parameter set, the second trial spectrum signal data, and the additional trial spectrum signal data to a dynamic library of profiles.” For support, the Examiner cites to Fig. 6B and paragraph 60 of the Shchegrov reference.

The cited portion of the Shchegrov reference discloses pre-computing off-line a coarse library “so that each profile type in the gallery is stored together with a number of sets of initial parameter values.” (Paragraph 60, lines 1-5). A simulated profile is then matched against the

predicted profiles that correspond to the different sets of initial parameter values in the coarse library. (Paragraph 60, lines 12-17.) From the comparison, the corresponding set of initial parameter values is identified and the process of blocks 120, 122, 124 and 126 of FIG. 5A are carried out to locate the final set of parameter values of the profile type. (Paragraph 60, lines 17-22).

Note that the coarse library with the sets of initial parameter values is computed before varying or adjusting the profile and file parameters by means of a nonlinear optimization tool, which corresponds to block 126 of FIG. 5A. Thus, the Shchegrov reference does not disclose “storing the second trial profile and the second sample trial spectrum signal data in a dynamic library of profiles” as recited in claim 1. Note that claim 1 recites that the parameter values for the second trial profile are determined using at least one optimization technique, “wherein the second trial profile is associated with a second sample trial spectrum signal data, and wherein the second trial profile matches the first actual profile more closely than the first trial profile.”

Therefore, Applicants assert that the Shchegrov reference fails to disclose each and every element of claim 1, and does not anticipate claim 1.

**B. Claims 2, 3, 5, 6, and 9**

Applicants assert that claims 2, 3, 5, 6, and 9 are patentable for at least the reason that they depend from an allowable independent claim, claim 1.

**C. Claim 22**

Claim 22 has been amended to include the limitation “if the trial signal does not satisfy the threshold, generating a new trial signal using the set of trial parameter values and storing the new trial signal in the profile library.” Applicants assert that the Shchegrov reference does not disclose this limitation.

**D. Claims 23-25**

Applicants assert that claims 23-25 are patentable for at least the reason that they depend from an allowable independent claim, claim 22.

**E. Claims 28 and 29**

Claims 28 and 29 have been amended to include the limitation “computer readable program code for causing said computer to effect storing the second trial profile and the second sample trial spectrum signal data in a dynamic library of profiles.” Applicants assert that the Shchegrov reference does not disclose this limitation.

**F. Claims 30, 31, 34, 35, 42, and 43**

Applicants assert that claims 30, 31, 34, 35, 42, and 43 are patentable for at least the reason that they depend from allowable independent claims, claims 28 and 29.

**G. Claims 58 and 59**

Claims 58 and 59 have been amended to include the limitation “if the trial signal does not satisfy the threshold: computer readable program code for causing said computer to effect generating a new trial signal using the set of trial parameter values and storing the new trial signal in the profile library.” Applicants assert that the Shchegrov reference does not disclose this limitation.

**H. Claims 60-65**

Applicants assert that claims 60-65 are patentable for at least the reason that they depend from allowable independent claims, claims 58 and 59.

**I. Claim 70**

Claim 70 has been amended to include the limitation “means for storing the second trial profile and the second sample trial spectrum signal data in a dynamic library of profiles.” Applicants assert that the Shchegrov reference does not disclose this limitation.

**II. Claim Rejections – 35 USC 103****A. Claim 10**

Claim 10 was rejected under 35 U.S.C. 103(a) as being unpatentable over the Shchegrov reference in view of U.S. Patent No. 4,999,508 (the Hyakumura reference). As noted above, claim 1, from which claim 10 depends, has been amended to include the limitation “storing the second trial profile and the second sample trial spectrum signal data in a dynamic library of profiles.” Applicants assert that neither the Shchegrov reference nor the combination of the Shchegrov reference and the Hyakumura reference discloses this limitation. As such, Applicants assert that claim 10 is patentable for at least the reason that it depends from an allowable independent claim, claim 1.

**B. Claims 36-39**

Claims 36-39 were rejected under 35 U.S.C. 103(a) as being unpatentable over the Shchegrov reference in view of U.S. Patent No. 6,476,920 (the Scheiner reference). As noted above, claims 28 and 29, from which claims 36-39 ultimately depend, have been amended to include the limitation “computer readable program code for causing said computer to effect storing the second trial profile and the second sample trial spectrum signal data in a dynamic library of profiles.” Applicants assert that neither the Shchegrov reference nor the combination of the Shchegrov reference and the Scheiner reference discloses this limitation. As such, Applicants assert that claims 36-39 are patentable for at least the reason that they depend from allowable independent claims, claims 28 and 29.

**III. Allowable Subject Matter**

Claims 7, 8, 40, and 41 were objected to as dependent upon a rejected base claim, but would be allowable if rewritten in independent form. For the reasons set forth above, Applicants assert that the base claims from which claims 7, 8, 40, and 41 depend are allowable. Thus, claims 7, 8, 40, and 41 are also allowable.

Claims 14-17 and 48-51 were found to be allowable. Applicants thank the Examiner for the allowance of these claims.

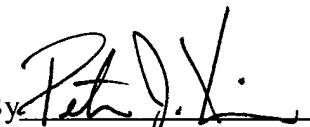
**IV. Conclusion**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If for some reason, the Examiner finds this amendment not to be fully responsive to the Office Action, Applicants request that the Examiner contact the undersigned immediately.

In the unlikely event that the transmittal letter is separated from this document and/or the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 509982001400.

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Respectfully submitted,

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